

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
UNITED STATES OF AMERICA

-against-

JASON KURLAND and CHRISTOPHER
CHIERCHIO,

Defendants.

**MEMORANDUM & ORDER
20-CR-306 (S-1) (NGG)**

NICHOLAS G. GARAUFIS, United States District Judge.

To facilitate the safe administration of in-person proceedings, the court has proposed excluding individuals who are not fully vaccinated against COVID-19 from the jury venire for the upcoming trial of Defendants Jason Kurland and Christopher Chierchio. Defendant Kurland objects to this proposal. For the reasons set forth in the court's opinion in *United States v. Elias*, 18-CR-33 (S-2) (NGG), 2022 WL 125721 (E.D.N.Y. Jan. 13, 2022), Kurland's objections are overruled.

As stated in *Elias*, the court has adopted a policy of requiring a vaccinated jury in all criminal and civil jury trials. This policy has allowed the court to conduct two successful, lengthy jury trials without delay or interruption. Since the opinion in *Elias* was issued on January 13, 2022, no changed circumstances warrant modifying this policy.

Though Defendants in this case are not incarcerated, as the defendants were in *Elias*, the court's concern about the backlog of trial-ready cases and the conditions of confinement during the COVID-19 pandemic is still relevant. Empaneling a vaccinated jury increases the likelihood of the trial running smoothly and continuously. Delay or interruption in this trial could prevent the court from presiding over other trials scheduled for this summer and fall and thus exacerbate the existing backlog. Further, in this

case, one Defendant and his attorney are unvaccinated, which increases the risk of transmission.

For the reasons explained above and in *Elias*, the court concludes that excluding individuals who are not fully vaccinated against COVID-19 from the jury venire is a lawful exercise of its discretion. This holding is intended to reduce the risk of COVID-19 transmission in the courtroom, to facilitate the administration of trials, and to help cure the backlog of trial-ready cases. Accordingly, Defendant Kurland's objection to a vaccinated jury is OVERRULED.

SO ORDERED.

Dated: Brooklyn, New York
May 26, 2022

s/Nicholas G. Garaufis
NICHOLAS G. GARAUFIS
United States District Judge